

Applic. No.: 10/629,926

Amdt. Dated April 13, 2005

Reply to Office action of January 13, 2005

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1-24 are remain in the application. Claim 1 has been amended.

In the section entitled "Claim Rejections - 35 USC 102" on pages 2-3 of the above-mentioned Office action, claims 1-2, 5, 9-11, 13, 15-16, and 19-21 have been rejected as being anticipated by Kushnir (US 6,508,831) under 35 U.S.C. § 102(e).

In the section entitled "Claim Rejections - 35 USC 103" on pages 3-4 of the above-mentioned Office action, claims 3 and 22 have been rejected as being unpatentable over Kushnir under 35 U.S.C. § 103(a).

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references. However, the language of claim 1 has been amended in an effort to even more clearly define the invention of the instant application.

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Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claim 1 calls for, inter alia:

an applicator having at least two layers defining a space therebetween with at least two chambers or channels, the chambers or channels being independently and individually fillable with fluidic media for releasing the chemical/physical parameters;

...

sensors connected to said control device, the media in the respective chambers or channels being controlled by said control device in dependence on the body parameters detected by said sensors.

According to the invention of the instant application, the space between the at least two layers are divided into at least two chambers and/or channels and the chambers and/or channels are fillable with media independently from each other. In other words, the chambers can be filled with different media and each medium in a chamber is individually controllable by the control device. Because of this, locally different regions of the body of a person can be impinged individually and thereby only one single applicator is needed for the treatment of a person. See the entire specification, especially page 6, lines 11-14 and the description of Fig. 2, especially page 23, lines 8 and the following.

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Kushnir discloses a garment having two layers defining a space therebetween. However, Kushnir does not disclose at least two chambers independently and individually fillable as recited in claim 1 of the instant application. In Kushnir, the space between the two layers has merely partitions 34a, 34b, 35, 36a and 36b, which are weld lines holding the two layers together. Thus, the partitions are not self-contained rooms. To the contrary, the space between the two layers of the garment is open, thus forming a single "channel." The partitions of the space provide an uninterrupted pathway for the fluid to flow through the garment (from the inlet 44 to the outlet 46), thereby providing a continuous fluid flow, which is diverted by the welded lines. It is noted that the continuous fluid flow (path) is referenced by arrowed lines 37a, 37b, 37c and 37d extending between the fluid inlet 44 and the outlet 46 (see Fig. 2 together with column 7, line 56 to column 8, line 4). Further, the garment can only accommodate one single medium due to the open space and the continuous pathway, in contrast to a plurality of media as recited in claim 1 of the instant application. Therefore, Kushnir's garment provides a heat transfer to and from the entire body of a treated person and is, thus, not able to provide an individual release of different parameters to locally different body regions (in dependence on the body parameters detected by the sensors).

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Clearly, Kushnir does not show "an applicator having at least two layers defining a space therebetween with at least two chambers or channels, the chambers or channels being independently and individually fillable with fluidic media for releasing the chemical/physical parameters; ... sensors connected to said control device; the media in the respective chambers or channels being controlled by said control device in dependence on the body parameters detected by said sensors," as recited in claim 1 of the instant application.

Claim 1 is, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

The references Daffer et al. (US 6,623,511 B1) and Parker et al. (US 6,443,164 B1), cited but not relied upon by the Examiner, are not in the relevant field of the invention of the instant application because both of them disclose a shower system and do not relate to an applicator as defined in claim 1 of the instant application.

Applicants acknowledge the Examiner's statement in the section entitled "Allowable Subject Matter" on page 4 of the above-mentioned Office action that claims 4, 6-8, 12, 14, 17-18, and

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23-24 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Since claim 1 is believed to be patentable as discussed above and claims 4, 6-8, 12, 14, 17-18, and 23-24 are ultimately dependent on claim 1, they are believed to be patentable in dependent form. A rewrite is therefore believed to be unnecessary at this time.

In view of the foregoing, reconsideration and allowance of claims 1-24 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made. Please charge any fees which might be due with respect to 37 CFR Sections 1.16 and 1.17 to

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the Deposit Account of Lerner and Greenberg, P.A., No. 12-  
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